

Before the
Federal Communications Commission
Washington, DC 20554

DOCKET FILE COPY ORIGINAL

In the Matter of

RECEIVED

Broadcast Services;) MM Docket No. 95-92
Network/Affiliate) FCC 95-254
Programming Rules)

SEP 28 1995

FCC MAIL ROOM

Comments of Thomas C. Smith

The following comments are the opinion's of Thomas C. Smith and do not represent the opinions of any other group or organization. I have been involved in the broadcast industry for over 26 years and have worked for a number of different broadcast stations and groups as a technician.

I would like to make some brief comments concerning some of the issues that the Commission raises in this docket. First, I am not addressing the issues of of the right ot reject rule or the time option rule, as I do not have any knowledge of network contracts. I believe that the parties involved in these contracts can give the best information to the Commission concerning these issues.

The issues I would like to address includes the dual network rule and to a lesser degree the network affiliation and territorial exclusivity rules.

Changes in the dual network rule may be overdue. The world already operates with many multi-network operations such as Turner Broadcasting, Viacom, and even ABC/Capcites, and NBC. It would appear that is acceptable to operate more than one network as long as the distribution of all, but one, is not over-the-air broadcast. Because of the dual network rule, distribution of these new multi-network operations could only occur within the cable TV industry. Many of these networks could only survive in a system based

No. of Copies rec'd
List ABCDE
049

on subscriptions such as cable TV, but some may have been viable as broadcast networks. The question can be asked, that because of the dual network rule, would any one of the major networks with all of their resources have wished to, but did not, start an over-the-air broadcast all news or sports network. Local stations were also limited in their program options because of lack of access to the new networks. This rule seems to discriminate against broadcasters in this multi-network world.

I would not be in favor of mergers between the existing major networks as I have the same concerns as the commission about the potential for concentration on market power. It would be better if the existing networks use their strength to create new networks. The viewer would benefit with the creation of more program alternatives.

My concerns with the exclusive affiliation rule is the same as the Commission raised in the notice of rulemaking. That concern is that by foreclosing secondary affiliation agreements, with exclusive affiliation agreements, it will become harder for the development of new networks and possibly cause the demise of ad-hoc regional sports networks.

This brings up the issue that I would most like to address. If the Commission would like to allow for more exclusive affiliation agreements and for the creation of new networks by the existing broadcast networks, more stations will need to be created. The Commission currently has a freeze on new applications and allocations within 100 miles of the top 30 markets pending the new Advanced TV rules. After the ATV rules are final, there will be no new

NTSC stations and all the new ATV stations will at first simulcast the existing NTSC stations until the transition is final. This would seem to be counter productive to these proposed changes in the rules concerning dual networks and increased exclusivity as there would not be any new outlets for new programming sources. The only way for many new networks to receive coverage is if the Commission allows multi-program transmission on the new digital channels. I raised this issue in comments I made on Docket MM 94-150, 92-51, 87-154 and FCC 94-324 concerning TV ownership rules. I feel that the Commission needs to consider allocation matters as they examine deregulation issues. All growth in the broadcast industry must be considered together, whether it is growth in ownership limits of stations, networks, or of the number of stations allocated. All these issues are interdependent and will determine the diversity of broadcast choices to the public.

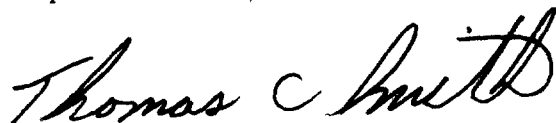
The final issue I would like to address is territorial exclusivity. The commission ask for some measurement for the determination of area of exclusivity. I am not aware that there was a problem with territorial exclusivity as I have not seen any information published concerning it. There are already many stations affiliated with the same network which have large areas of signal overlap. If there is a problem, then These stations can be used to set the basis of proposed rule. I would suggest that territorial exclusivity agreements be limited to preventing a station from placing it's grade A signal into the community of license of another station affiliated with the some

network. Most of the markets, that I am familiar with, that have large amounts of overlap would meet this benchmark. I believe that this limitation would give reasonable separation and cause little disruption to existing stations or viewers.

In conclusion, the main point of my comments is that some of the existing rules may have limited growth and competition, but deregulation should not undertaken without some plan for continued growth. These growth includes having a reasonable number of stations allocated in all parts of the country to meet distribution needs of all programming services. If the number of stations do not grow, but the size of the groups that own them do, then program diversity will be monopolize by a small group of large corporations. The desired outcome of deregulation should be increase competition, not the creation of monopolies.

Respectively Submitted;

September 25, 1995

A handwritten signature in cursive script, reading "Thomas C. Smith". The signature is written in dark ink and is positioned above the typed name and address.

Thomas C. Smith
1310 Vandenburg Street.
Sun Prairie, WI 53590